

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

LAWRENCE LANDRUM,

Petitioner, : Case No. 2:12-cv-859

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

NORMAN ROBINSON, Warden,
Chillicothe Correctional Institution,

Respondent.

REPORT AND RECOMMENDATIONS

This capital habeas corpus case is before the Court on Notice of the February 13, 2017, Order of the United States Court of Appeals for the Sixth Circuit, *In re: Lawrence Landrum*, Case No. 16-3151 (unreported; copy at ECF No. 47).

On February 16, 2016, on the undersigned's recommendation, District Judge Rose transferred this case to the Sixth Circuit as a second or successive habeas corpus petition within the meaning of 28 U.S.C. § 2244(b)(2). The Sixth Circuit agreed that the Petition was second or successive but barred from consideration, denying both Landrum's motion to remand and permission to proceed. (ECF No. 47, PageID 492).

A District Court is without jurisdiction to consider a second or successive petition without permission of the circuit court. *Burton v. Stewart*, 549 U.S. 147 (2007). It is therefore respectfully recommended that the Petition herein be dismissed for lack of jurisdiction. Because reasonable jurists would not disagree with this conclusion, Petitioner should be denied a

certificate of appealability and the Court should certify to the Sixth Circuit that any appeal would be objectively frivolous and therefore should not be permitted to proceed *in forma pauperis*.

February 15, 2017.

s/ ***Michael R. Merz***
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).